

Family Matters



Quarterly News and Information about Family Court in Kentucky

December 1998

Rising to Meet the Needs of Families

Letter from the Coordinator

WHAT'S NEW....

The last three months have seen significant strides in the development of the three newest family courts. Temporary facilities have been com-

pleted for the Boone/Gallatin Family Court and the Warren Family Court, and Pike Family Court has found a new home in the county courthouse in Pikeville. Staff has been hired and received initial training, the judges have attended a college devoted to family law issues, and progress has been made in developing a pilot computer system to coordinate cases and produce documents for the court. The

WHAT'S PLANNED.....

transition to hearing cases within a unified family court system has been relatively smooth, due in large part to the hard work of the judiciary and the clerk's staff in each location. All courts have begun hearing cases and have submitted local "transitional" rules to Chief Justice Lambert for his review and approval.

In addition to the strides made by the newest family courts, some "behind-the-scenes" planning is taking place for the 1999 phase of family court implementation. By the end of November, key stakeholders in each community will be contacted to discuss timelines and implementations, needs and available resources. The Administrative Office of the Courts (AOC) continues to explore facilities issues for the family courts to enable them to become operational in a timely manner.

Equally important, has been the establishment of evaluation tools to record the successes and

challenges for each of the pilot sites. A good record of what is working and how, and what may not be working and why, will be invaluable to the future development of family courts here in the commonwealth. I have received numerous requests from other states asking for information about the development of our family courts. Kentucky is clearly a forerunner in the establishment of family courts and other states are eager to replicate the work we are doing. *Your input is valuable.* I have learned much from the KBA District Bar meetings and phone calls to my office.

PLEASE HELP

One goal for this letter is for it to become a forum for a discussion of some substantive legal issues specific to family court, and to be an education/learning tool through the dissemination of information. Towards that end, family court clerks have been invited to submit information on their progress and goals. I would also like to invite submission of articles from the

In This Issue....

Letter from the Coordinator	1
Family Court Updates:	2
Boone/Gallatin	2
Pike	3
Warren County	3
Staff Training	4
Child Support and the Courts	4
Mediation and Family Courts	5
Upcoming Events	8

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bench and the bar on family court issues. The next newsletter will focus on both mediation and "holiday" visitation issues, and subsequent newsletters may include discussion of domestic violence issues, child abuse, proposed legislation,... you get the idea. We hope to make this newsletter a useful and interesting tool. One quick note; we are in the beginning stages of production and future newsletters will be shaped depending on the number and quality of submissions. I would welcome your assistance.

Thank you.

Carla Kreitman

State Family Court Coordinator

FAMILY COURT SITE UPDATE:

BOONE/GALLATIN FAMILY COURT.....

The Boone/Gallatin Family Court has made much progress since publication of the last newsletter. On August 25, 1998, Governor Paul Patton appointed **Linda R. Bramlage** as Family Court Judge for the Boone/Gallatin Family Court. Judge Bramlage comes to the court with nine years of domestic relations experience. She earned her bachelor of science degree in sociology from Northern Kentucky University in 1984 and her juris doctor from the Salmon

P. Chase College of Law in 1989.

The Boone/Gallatin Family Court has hired an excellent staff to get the court up and running. **Kimberely J. Adams** has been named Family Court Administrator for the Fifty-Fourth Judicial Circuit. Kim earned a bachelor of arts in communications from Northern Kentucky in 1982 and a juris doctor from Salmon P. Chase College of Law in 1985.

Judicial Secretary **Brenda Trimble** previously served as secretary to the Boone County Domestic Relations Commissioner for eighteen years.

Staff Attorney **Cassandra Schmidt** received her bachelor of arts degree in political science from the University of Louisville in 1992 and her juris doctor from the University of Louisville in 1996. She worked as an attorney with Hoffman, Hoffman & Grubbs for two years prior to joining family court.

Support Worker **Stephen Penrose** received a bachelor of arts degree in political science, with a minor in social work, from Morehead State University in 1997. He worked as a case manager with the Northern Kentucky Area Development District prior to joining the family court.

The Boone/Gallatin Family Court has compiled a tentative court schedule. In general, there will be a two-phase transitional period, beginning in mid-October and extending through the end of 1998. During this period, the family court will begin hearing cases while the Domestic Relations Commissioner finishes hearing

pending cases.

Office space for the Boone/Gallatin Family Court will be located on the first floor of the old courthouse at 2950 Washington Street, Burlington, Kentucky 41005. Their phone number is (606) 334-3520. Renovation of the office is expected to be completed soon for occupancy by the family court staff. Family court hearings will be held in Courtroom B on the first floor of the old courthouse. The first meeting of the Boone/Gallatin Family Court Advisory Council was held on October 1, 1998 with 32 members in attendance. At that time Judge Bramlage explained the purpose of the Advisory Council. Subcommittees were announced and chairpersons from each subcommittee were selected.

PIKE COUNTY.....

Kathryn Burke was appointed Family Court Judge by Governor Patton on August 25, 1998. Judge Burke received her law degree from the University of Louisville Law School. Judge Burke served as law clerk to Justice James B. Stephenson of the Supreme Court of Kentucky. She worked in general private practice, concentrating on domestic relations, probate and property cases. Judge Kathy Burke served as Guardian Ad Litem in dependency abuse and neglect cases, as well as disability cases, and as Special Domestic Relations Commissioner since 1991. Judge Burke was active in working to bring family courts to her community and Kentucky. She

served on the Supreme Court Task Force for Formation of Family Courts in Kentucky, and was Co-Chair of the Committee for Formation of Family Court in Pike County.

Glenda Lyons, the Family Court Administrator, has been employed in Pike county as a Court Designated Worker since June 12, 1988. Glenda has been involved in many programs throughout her community such as Teen Court, CASA, AIDS Hotline Volunteer, and Chairperson for the Mullin Family Resource and Youth Services Center.

Justine Dotson has accepted the position of Judicial Secretary. Prior to this Justine was a legal secretary for six years. She has an associate degree in legal science.

Support Worker **Joyce Worrix** has an Associate degree in Legal Science and has ten years experience as a legal secretary.

Law Clerk **John Austin** comes to Pike county from Lexington, Kentucky. He received a B.A. in history from the University of Kentucky. He then attended Paul M. Hebert Law Center at Louisiana State University. He was a law clerk for two years at Coxe, Coxe, & Shortess in Baton Rouge, Louisiana.

Pike County Family Court is located in the county courthouse at 324 Main Street Suite 201, Pikeville, Kentucky 41501. Their phone number is (606) 433-7062.

WARREN COUNTY.....

Margaret Ryan Huddleston was appointed Family Court Judge by Governor Patton on September 3, 1998. Judge Huddleston received her law degree from Salmon P. Chase

College of Law in Northern Kentucky. Judge Huddleston was in private practice for three years and then transferred to Bowling Green where she practiced prior to her appointment. In her legal career, Judge Huddleston represented indigent clients primarily in the field of domestic relations in many of the jurisdictions that will be included in family court. Judge Huddleston has served on family betterment organizations in her community such as: the

Office of Kentucky Legal Service Program, Family Law Service Program, Family Law Task Force, Family Self-Sufficiency Program Coordinating Committee (Housing), Barren River Long Term Care, and the Association for Children for Enforcement of Support.

Connie DeVries, Family Court Administrator, received a B.S. degree in education from Butler University in Indianapolis, Indiana. She also completed thirty hours of postgraduate school at Western Kentucky University in the education field. Connie was employed in Warren county as a deputy clerk in the Juvenile Division for two years and the prior two years as the judicial secretary for the Warren County Court Administrator. Connie has been involved in the school community as a member of the Site-Based Council in Warren county and has served as a volunteer for various school affiliated organizations.

Judicial Secretary **Maggie Pearson** is a native of Bowling

Green, Kentucky. Her background includes working in the legal field over the past fifteen years for private attorneys and in the Child Support Division at the County Attorney's Office where she worked in the courtroom alongside the County Attorney and Assistant County Attorneys hearing cases.

Social Worker **Teresa Christmas** is a graduate of Western Kentucky University, where she worked as a Family Services Coordinator for a training and technical assistance center. She served as the Executive Director of the 1994 Bowling Green International Festival.

Matthew Krygiel, Law Clerk, received his juris doctor from the University of Kentucky College of Law in 1998. While at U.K. he served as a staff member on the Journal of Natural Resources and Environmental Law. He has a B.A. in government from Western Kentucky University. Prior to joining family court he was a clerk for the law firms of Bell, Orr, Ayers & Moore and Harned, Bachert & Denton in Bowling Green. He was an intern for the Legislative Research Commission in Frankfort during the 1994 legislative session. Warren County Family Court is located at 416 East Tenth Avenue, on the first floor of the Warren county courthouse. Their Mailing address is P.O. Box 3000, Bowling Green, KY 42101. Their phone number is (502) 781-3128.

STAFF TRAINING

The staff of the newest family courts have undergone on-site training with the Jefferson County Family Court. Staff members met, both as a group and individually, with members of the Jefferson County Family Court staff. The staff also sat in on several court dockets and organizational meetings.

On October 4-9th, the new family court judges had the privilege of attending the Advanced Family Law Seminar in Reno, Nevada. The seminar was hosted by the National Council of Juvenile and Family Court Judges.

AOC staff is currently designing a family court track for the Circuit Judge's College. This will be accomplished in conjunction with the Division of Education Services at the AOC.

CHILD SUPPORT AND THE COURTS

Significant changes took place in 1996 when President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), better recognized as the "Welfare to Work" legislation. This legislation mandated the enactment and implementation of specific laws and procedures by the states as a condition of the continued receipt of federal funds. Kentucky's 1998 General

Assembly enacted legislation (HB161) to comply with the federal requirements. This legislation has a significant impact on child support cases within the court system, including those cases handled by private attorneys.

HB161 requires that the Cabinet for Families and Children establish and maintain a state case registry of **all** child support orders entered in Kentucky on or after October 1, 1998. Under PRWORA, Kentucky is required to periodically forward certain information to a Federal Case Registry of Child Support Orders. Additionally, HB 161 requires that the Cabinet for Families and Children establish and maintain a centralized child support collection and disbursement unit which will channel all IV-D child support monies as well as non-IV-D child support monies collected pursuant to a wage withholding order. With the federal requirement that there be immediate income withholding in every support case, with limited exceptions most cases will be paid through the centralized collection unit. The Cabinet for Families and Children has contracted with a private company for services as the state disbursement unit.

A national forum for discussion of the progress of individual states in meeting the objectives of PRWORA was convened in Colorado in September 1998. Several attendees from Kentucky participated in an effort to learn more about the federal requirements and pro-actively address the impact on the Court

of Justice and Kentucky's IV-D agencies.

Meetings have been held at the Administrative Office of the Courts, under the leadership of Sara Boswell Dent, AOC Staff Attorney, and Fayette Circuit Judge James Keller, regarding necessary changes to the statewide wage assignment form, adoption of the federal form for certain limited cases, and incorporating and capturing necessary data elements for the Cabinet. The emphasis of these meetings has been on developing consumer-friendly, "uniform" forms to be utilized by all counties, development of a protocol for the exchange of information between the courts and the Cabinet, and developing a strategy for advising the bench and the bar of changes.

MEDIATION AND FAMILY COURTS

"The courts of this country should not be the places where the resolution of disputes begins. They should be the places where disputes end - after alternative methods of resolving disputes have been considered and tried."

-Justice Sandra Day O'Connor

One of the primary goals of family court is to decrease the damage families suffer when settling intra-familial disputes. Utilization of various alternative dispute resolution (ADR) techniques offers options to families who wish to settle their disputes outside of the courtroom in a more positive, less costly manner. This article will provide the reader

with a general understanding of various ADR techniques and what role they play in the family courts of Kentucky.

What is ADR? According to the American Arbitration Association, “Alternative Dispute Resolution is a term that refers to a variety of techniques for resolving disputes without litigation. Two of the better known methods of ADR are mediation (in which the parties in a dispute reach a voluntary settlement with the help of a skilled facilitator) and arbitration (in which the parties choose a disinterested neutral to whom to present their case for a legally binding ruling).”¹

A frequently used form of ADR in family court is mediation. Mediation can be accomplished using several different methods. Robin N. Amadei and Lillian S. Lehrburger note that mediation involves a “broad range of styles, techniques and approaches that depend on the mediator’s outlook, background, training and experience as well as the type of case.”²

One way to view mediation is to look at a “spectrum of style possibilities.” On one end of the spectrum is the “process-oriented” approach. Amadei and Lehrburger state that the process approach, “presumes that the parties hold the solution to their dispute and can, with

proper assistance, arrive at a solution with which they can all live. While the mediator helps the



parties to clarify, organize and understand the factual and legal issues involved in the case, the mediator does not recommend a solution based upon his or her analysis of the case. In this approach, one of the mediator’s jobs is to encourage the parties to expand their discussion beyond the narrow range of legal issues in dispute so that they can craft a more creative, flexible and appropriate solution than that which might result if the case were litigated.”³

Amadaei and Lehrburger point out that the mediator is the “facilitator of a process” as opposed to an authority figure. Thus, parties are empowered to define and resolve the dispute themselves.

On the other end of the spectrum is the “substance-oriented” approach, often referred to as neutral evaluation. This style is structured and legal in nature. The mediator “evaluates” the case and offers analysis or “substantive

recommendations” on how to solve the case. This evaluation is often based on the mediators legal experience and how the mediator believes the dispute would be settled in court. Mediators that utilize this approach are often authority figures, for example former judges or attorneys; therefore, substance-oriented mediation sessions are often more adversarial in nature. This approach to mediation is not as conducive to family court as the process-oriented model.

The process-oriented approach philosophy is that parties, and not the mediator, take credit for shaping a conclusion that is agreeable to them and their unique situation.⁴

According to Judith P. Meyer, “The absolute advantages of mediation are in its voluntariness. Even in court-ordered or court-annexed programs, resolution is in the hands of the parties and their counsel. The mediator does not sit as an arbitrator and cannot conclude the case without parties’ consensus.”⁵

In his article, “Family Courts: A Model for an Effective Approach to the Resolution of Family Disputes,” the Honorable Robert Page states, “As a key feature of the family court,

¹The American Arbitration Association, 1998. “A Beginners’ Guide to Alternative Dispute Resolution.” [Online] Available: <http://www.adr.org/guides/guide.html>

²Amadei, R. and Lehrburger, S., 1998 “The World of Mediation a Spectrum of Styles.” [Online] Available: http://www.adr.org/drg/the_world_of_mediation.html

³Id.

⁴Id

⁵Meyer, Judith. 1998. “The Pros and Cons of Mediation.” *Alternative Dispute Resolution Handbook*. (George T. Bisel. 1998)

maximizing non-adversarial dispute resolution recognizes counseling and mediation techniques as the best way of dealing with family problems....

The traditional adversarial approach of trial courts creates new barriers to this (family) relationship, rather than breaking down the old barriers. Public accusations in the courtroom, cross-examination exposing confidences with the family, anxieties caused by courtroom setting, imprisonment and humiliation are all the direct result of in-court proceedings. Experience has shown that this kind of formal dispute resolution not only creates hostility and anger, but also intensifies the basic problem rather than offering solutions.”⁶

Judge Page also addresses the concerns that many judges, attorneys, and others express regarding mediation in the court process. It has been alleged that the mediation process deprives participants of their fundamental constitutional rights. This is not the case. Parties in a mediation should be given the choice to participate in mediation. Mediation is most effective when both parties participate voluntarily.

“Minimum standards have been proposed by the National Council of Juvenile & Family

Court Judges to guarantee the maintenance of ‘essential fairness’ in all ADR programs considering family court matters. It is of primary importance that all preadjudicatory efforts to resolve intra-familial disputes by non-adversarial means must be implemented only on a voluntary basis.”⁷

Each Kentucky family court will address the use of various ADR techniques within its system. This will be accomplished through local rules of practice and with the advice and the guidance of the Family Court Council. It is the goal of courts to include mediation as an integral component of successful Kentucky family courts.

In summary, U.S. Supreme Court Justice Warren Burger said, “The obligation of [the legal] profession is to serve as healers of human conflicts. We should provide mechanisms that can produce an acceptable result in the shortest possible time, with the least possible expense and with a minimum of stress on the participants. That is what justice is all about Our litigation system is too costly, too painful, too destructive, too inefficient for a civilized people.”

*-Jennifer Vanhooose
Kentucky Family Court, AOC*

UPCOMING EVENTS

KBA/District Bar
Meeting..... Dec.2,3

FCC Meeting..... Dec. 10th

Boone/Gallatin
Open House..... Dec. 18th

CHILD VICTIMS PROJECT STATUS REPORT

In 1992 the National Council of Juvenile and Family Court Judges established a new national project, supported by both private and federal funds, informally called the NCJFCJ Child Victims Model Courts Project. The Jefferson County Family Court became one of the first model courts to focus on improving practice in child abuse and neglect cases, and to commit to the principles outlined in the RESOURCE GUIDELINES. Twelve model courts use the guidelines to set both short- and long-term goals to guide systems change. Specific collaborative achievements have been highlighted in publications to other jurisdictions, to state improvement programs and to other courts nationwide. Some of the Jefferson County Family Court initiatives highlighted in the NCJFCJ’s latest publication include:

⁶Page, Robert. “Family Courts: A Model for an Effective Judicial Approach to the Resolution of Family Disputes.” ABA Summit on Unified Family Courts. (pp. A1-A)

⁷Id.

**ADOPTIONS OPPORTUNITIES
GRANT:**

Kentucky's court system has been distinguished as one of five states to participate in the Adoptions Opportunities Grant funded by the United States Department of Health and Human Services. The family court of Jefferson county is one of two Kentucky demonstration sites chosen to develop plans to positively impact the timely adoption of children. Goals of this initiative include implementation of a risk assessment matrix, recruitment of foster care/adoptive homes and development of streamlined legal representation.

**COMMUNITY PARTNERSHIP
FOR PROTECTING
CHILDREN:**

The partnership is a multi-year project sponsored by the Edna McConnell Clark Foundation. Its aim is to promote effective and innovative community and agency-cooperative ways to enhance children's well-being. Louisville is one of four sites to receive Edna McConnell Clark sponsorship and has received \$600,000 to establish working relationships among agencies formally charged with the responsibility of providing protective services to children and community-based organization. Other sites are St. Louis, Missouri, Jacksonville, Florida, and Des Moines, Iowa.

**FAMILY MEDIATION
PROJECT:**

The project provides pre-court mediation for dependency, neglect and abuse cases which meet identified criteria. Cases which are successfully resolved are not available for formal court referrals. Successfully completed cases allow scarce judicial resources to be more efficiently utilized. This is a collaborative effort between Jefferson Family Court, Just Solutions, the Cabinet for Families and Children, the Jefferson County Attorney, and Neighborhood Place Ujima, all of whom provide in-kind services for administration.

FAMILIES IN TRANSITION:

This divorce adjustment education program helps families recognize and respond to difficulties experienced by children of divorce. A sliding \$1-\$50 fee is charged, supplemented by administrative services from the University of Louisville Family Therapy Program.

For more information regarding these Jefferson County Family Court initiatives, please contact Jim Birmingham at (502) 595-4392, Hall of Justice, 600 West Jefferson Street, Louisville, KY 40202.